

REMARKS

Statement regarding Sequence Listing

Enclosed with the response dated May 28, 2008 was a copy of a Substitute Sequence Listing associated with this file. This Substitute Sequence Listing corrected the <213> designation as required in the Notice to Comply mailed with the Office Action dated November 29, 2007; it in no way introduced new matter into the specification. Applicants request that the Substitute Sequence Listing be entered.

No new matter has been entered.

Status of the Claims

Claims 1, 3-12, 14-15 and 17-24 are pending; claims 2, 13, 16 and 25 are canceled; and claims 1, 3-4, 7, 9-10, 17-18, 20 and 24 were amended in the Response After Final filed May 28, 2008.

Applicants herein expressly request entry of those amendments and consideration of the amendments in light of the arguments/remarks presented below.

No new matter has been entered.

1. Claim Rejections under 35 USC Section 112 -- Written Description & Enablement

In the Advisory Action issued July 14, 2008, the Examiner indicates that the above amendments to the claims would overcome the written description and enablement issues. Therefore, Applicants request that the above amendments be entered and that the Examiner withdraw the present rejections.

2. Claim Rejections under 35 USC Section 112, Second Paragraph

In the Advisory Action issued July 14, 2008, the Examiner indicates that the above amendments to the claims would overcome the indefiniteness rejection. Therefore, Applicants request that the above amendments be entered and that the Examiner withdraw the present rejections.

3. Claim Rejections under 35 U.S.C. §102(b)

In the Advisory Action issued July 14, 2008, the Examiner indicates that the above amendments would necessitate re-instatement of the anticipation rejection in the Office Action issued March 26, 2007. In that Action, the Examiner rejected claims 1, 4, and 9-13 as anticipated by Guenzi. The Examiner indicates that the same rejection would apply to claims 1, 3-12, 15, 17-24. In order to further prosecute this application, Applicants address this rejection. Therefore, Applicants respectfully traverse.

Applicants and the Examiner have already addressed the Guenzi reference. In the Amendment dated September 26, 2008 Applicants argued that the claims were directed to identifying, detecting and quantifying GBP-1 and GBP-1 fragments in the supernatants of tissue cultures and cell cultures or in body fluids. But Guenzi et al. describe GBP-1 as a non-secreted, intracellular protein, and does not teach or suggest identifying, detecting or quantitating GBP-1 in supernatants or body fluids, as presently claimed. The Examiner agreed with this position in the Office Action of November 29, 2007, stating "Guenzi . . . does not teach an in vitro method identifying GBP-1 in the supernatant of a tissue culture, cell culture, or a body fluid." (Office Action dated November 29, 2007, pages 2, last line to page 3, lines 1 and 2).

Applicants submit that the claims are still directed to identifying, detecting and quantifying GBP-1 in the supernatants of tissue cultures and cell cultures or in body fluids. Applicants submit that body fluids represent a locale that is not intracellular, thus Guenzi does not disclose the current method. Applicants do not understand why the substituting the species "antibody" for the genus "receptor" changes the underlying proposition that Guenzi does not disclose detecting extracellular GBP-1.

Applicants also point out that the amendment removing "supernatant" from before "body fluids" in claim 1 merely made the claim internally consistent. Furthermore, as discussed above, this

amendment does not change the nature of the invention, which is an in vitro method identifying GBP-1 in the supernatant of a tissue culture, a supernatant of a cell culture, or a body fluid. That is, a sample not including the interacellular milieu is analyzed.

Accordingly, Guenzi et al. does not anticipate the presently claimed methods, and Applicants respectfully request reconsideration and withdrawal of the present anticipation rejection.

4. Claim Rejections under 35 U.S.C. §103(a)

In the Advisory Action issued July 14, 2008, the Examiner indicates that the above amendments would necessitate re-instatement of an obviousness rejection based on Guenzi, in light of Sturzl, as discussed in the March 26, 2007 Office Action. The Examiner indicates that the rejection would apply to claims 1, 3-12, 15, 17-24. Applicants respectfully traverse.

As discussed above, Guenzi discloses GBP-1 as a non-secreted, intracellular protein, and does not teach or suggest identifying, detecting, or quantitating GBP-1 in supernatants or body fluids, as presently claimed. As Applicants indicated in their response dated September 26, 2007, Sturzl does not remedy this deficiency. Like the anticipation rejection above, the obviousness rejection was withdrawn in the Office Action of November 29, 2007.

Applicants submit that the claims are still directed to detection of GPB-1 in an extracellular environment. As before, the Examiner has failed to establish a prima facie case of obviousness with regard to the present method. Applicants respectfully request that the rejection be withdrawn.

5. Conclusion

In view of the foregoing amendment and remarks, Applicants respectfully request immediate allowance of this application, the claims of which define subject matter that meets all that statutory patentability requirements.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Mark J. Nuell (Reg. No. 36,623) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Dated: July 28, 2008

Respectfully submitted,

By 

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